

ENTERED

March 29, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JESSICA GUTIERREZ § CIVIL ACTION No.
and JOSH JACKSON, § 4:21-cv-03309
Plaintiffs, §

vs. § JUDGE CHARLES ESKRIDGE

J.B. HUNT TRANSPORT §
INC and ANTWANN §
FORDHAMM, §
Defendants. §

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiffs Jessica Gutierrez and Josh Jackson claim that they were injured when a tractor-trailer owned or leased by Defendant J.B. Hunt Transport Inc and operated by Defendant Antwann Fordham struck their vehicle while backing from a private driveway. They brought action in state court to assert claims against Defendants for various forms of negligence pursuant to Texas state law. Dkt 1-1.

J.B. Hunt removed based on diversity jurisdiction prior to service on Fordhamm. Dkt 1. Plaintiffs moved to remand, contending that diversity jurisdiction doesn't exist. Dkt 4. For purposes of diversity jurisdiction, Plaintiffs and Fordhamm are citizens of Texas, and J.B. Hunt is a foreign corporation doing business in Texas. Dkt 1-1 at 6. J.B. Hunt contends that at the time of removal, Fordhamm had neither been served nor made an appearance in the state court action. Thus, diversity jurisdiction at that time existed and removal was proper. Dkt 8 at 1-2.

The motion to remand was referred to Magistrate Judge Sam S. Sheldon, who recommended that it be granted. Dkt 21.

The district court conducts a *de novo* review of those conclusions of a magistrate judge to which a party has specifically objected. See 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). To accept any other portions to which there is no objection, the reviewing court need only satisfy itself that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglas v United Services Automobile Association*, 79 F3d 1415, 1420 (5th Cir 1996); see also FRCP 72(b) Advisory Comm Note (1983).

No party objected. The Court has considered and reviewed the Memorandum and Recommendation, pleadings, record, and applicable law. No clear error appears.

The Memorandum and Recommendation by the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 21.

The motion by Plaintiffs Jessica Gutierrez and Josh Jackson to remand is GRANTED.

This action is REMANDED to the 190th District Court of Harris County, Texas.

The Clerk shall provide a copy of this Order to the District Clerk for Harris County, Texas.

SO ORDERED.

Signed on March 29, 2022, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge